



## 2023 South Dakota Legislature

# Senate Bill 113

HOUSE STATE AFFAIRS ENGROSSED

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: **Senator Crabtree**

1 **An Act to establish and modify provisions related to initiated petitions.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** The Legislature finds that the Secretary of State has various  
 4 administrative functions that are necessary to ensure a fair and orderly petition and  
 5 election process. These functions include but are not limited to sampling signatures to  
 6 ensure their validity; certifying measures for the ballot; and preparing, printing, and  
 7 distributing ballots.

8 The Legislature finds that in addition to these administrative functions, it is also  
 9 essential to provide sufficient time for the resolution of any legal challenges related to the  
 10 petition circulation process. Such challenges may involve allegations of fraud, forgery,  
 11 filing of false instruments, or other illegalities, and may be subject to review by both the  
 12 Circuit Court and the Supreme Court.

13 The Legislature finds that such litigation can be time-consuming and complex, and  
 14 therefore, it is necessary to allow adequate time for it to be conducted in a thorough and  
 15 fair manner.

16 Accordingly, the Legislature finds that it is important to establish a clear timeline  
 17 for the election process and deadline for petition submission that allows for both the  
 18 Secretary of State's administrative functions and the resolution of any legal challenges.

19 To this end, the Legislature determines that the following time windows are  
 20 necessary:

21 The Legislature finds that general election day in South Dakota is the Tuesday after  
 22 the first Monday in November. Therefore, general election day occurs within November 2  
 23 to November 8.

24 The Legislature finds that the absentee voting period begins 46 days prior to the  
 25 general election. Therefore, absentee voting begins within September 17 to September  
 26 23.

1           The Legislature finds that the South Dakota Secretary of State requires  
 2           approximately one month to prepare and print all ballots to be used on general election  
 3           day. Therefore, the time period for preparing and printing ballots must begin within August  
 4           18 to August 24.

5           The Legislature finds that 60 days time is minimally sufficient to accommodate an  
 6           appeal in the Supreme Court. Therefore, the time window for an appeal in the Supreme  
 7           Court must begin within June 19 to June 25.

8           The Legislature finds that 60 days time is minimally sufficient to accommodate an  
 9           action in circuit court to challenge the validity of petition signatures. Therefore, the time  
 10          window for a circuit court challenge must begin within April 20 to April 26.

11          The Legislature finds that the South Dakota Secretary of State requires  
 12          approximately 45 days to review petition signatures for validity and certify a measure for  
 13          the ballot. Therefore, the time window for a circuit court challenge must begin within  
 14          March 6 to March 12.

15          Therefore, the Legislature finds that the petition submission deadline shall be the  
 16          second Tuesday in March.

17       **Section 2. That § 2-1-1.1 be AMENDED:**

18           **2-1-1.1.** ~~The~~A petition as it is to be circulated for an initiated amendment to the  
 19       Constitution ~~shall~~ must be filed with the secretary of state, including an electronic copy of  
 20       the petition ~~as it is to be circulated~~, prior to circulation for signatures and ~~shall~~ at least  
 21       one year before the next general election at which the initiated amendment is proposed  
 22       to be submitted to the voters. The petition filing must:

- 23       (1)    Contain the full text of the initiated amendment in fourteen-point font;
- 24       (2)    Contain the date of the general election at which the initiated amendment is to be  
 25       submitted;
- 26       (3)    Contain the title and explanation as prepared by the attorney general;
- 27       (4)    Be accompanied by a notarized affidavit form signed by each person who is a  
 28       petition sponsor that includes the name and address of each petition sponsor; and
- 29       (5)    Be accompanied by a statement of organization as provided in § 12-27-6.

30       Each petition circulator shall provide to each person who signs the petition a form  
 31       containing the title and explanation of the initiated amendment to the Constitution as  
 32       prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; the  
 33       name, phone number, and email address of each petition sponsor; and a statement  
 34       whether the petition circulator is a volunteer or paid petition circulator and, if a paid

1 circulator, the amount the circulator is being paid. The form ~~shall~~ must be approved by  
 2 the secretary of state prior to circulation. The petition form, as prescribed by the State  
 3 Board of Elections, ~~shall~~ must include the paid circulator identification number within the  
 4 verification of any paid circulator.

5 For any initiated amendment petition, no signature may be obtained more than  
 6 twenty-four months preceding the general election that was designated at the time of  
 7 filing of the full text. ~~The initiated amendment petition shall be filed with the secretary of~~  
 8 ~~state at least one year before the next general election.~~ A sworn affidavit, signed by at  
 9 least two-thirds of the petition sponsors, stating that the documents filed constitute the  
 10 entire petition and to the best of the knowledge of the sponsors contains a sufficient  
 11 number of signatures shall also be filed with the secretary of state. The initiated  
 12 amendment petition signatures must be filed with the secretary of state by the second  
 13 Tuesday in March of a general election year for the initiated amendment to qualify for  
 14 submission to the voters at the next general election. The form of the petition otherwise,  
 15 including petition size and petition font size for ballot measure language not prescribed in  
 16 this section, and the affidavit ~~shall~~ must be prescribed by the State Board of Elections.

17 **Section 3. That § 2-1-1.2 be AMENDED:**

18 **2-1-1.2.** ~~The~~ A petition as it is to be circulated for an initiated measure ~~shall~~ must  
 19 be filed with the secretary of state, including an electronic copy of the petition ~~as it is to~~  
 20 ~~be circulated~~, prior to circulation for signatures and ~~shall~~ at least one year before the next  
 21 general election at which the initiated measure is proposed to be submitted to the voters.  
 22 The petition filing must:

- 23 (1) Contain the full text of the initiated measure in fourteen-point font;
- 24 (2) Contain the date of the general election at which the initiated measure is to be  
 25 submitted;
- 26 (3) Contain the title and explanation as prepared by the attorney general;
- 27 (4) Be accompanied by a notarized affidavit form signed by each person who is a  
 28 petition sponsor that includes the name and address of each petition sponsor; and
- 29 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

30 Each petition circulator shall provide to each person who signs the petition a form  
 31 containing the title and explanation of the initiated measure as prepared by the attorney  
 32 general; any fiscal note prepared pursuant to § 2-9-30; the name, phone number, and  
 33 email address of each petition sponsor; a statement whether the petition circulator is a  
 34 volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is

1 being paid. The form ~~shall~~ must be approved by the secretary of state prior to circulation.  
2 The petition form, as prescribed by the State Board of Elections, ~~shall~~ must include the  
3 paid circulator identification number within the verification of any paid circulator.

4 For any initiated measure petition, no signature may be obtained more than  
5 twenty-four months preceding the general election that was designated at the time of  
6 filing of the full text. ~~The initiated measure petition shall be filed with the secretary of~~  
7 ~~state at least one year before the next general election.~~ A sworn affidavit, signed by at  
8 least two-thirds of the petition sponsors stating that the documents filed constitute the  
9 entire petition and to the best of the knowledge of the sponsors contains a sufficient  
10 number of signatures ~~shall~~ must also be filed with the secretary of state. The initiated  
11 measure petition signatures must be filed with the secretary of state by the second  
12 Tuesday in March of a general election year for the initiated measure to qualify for  
13 submission to the voters at the next general election. The form of the petition otherwise,  
14 including petition size and petition font size for ballot measure language not prescribed in  
15 this section, and the affidavit ~~shall~~ must be prescribed by the State Board of Elections.

16 **Section 4. That § 2-1-15 be AMENDED:**

17 **2-1-15.** Upon the receiving of any initiative petition, referred law petition, or  
18 initiated constitutional amendment petition, the secretary of state shall examine the  
19 petition and petition signatures and make them available to the public upon request and  
20 payment of reasonable fees in accordance with § 1-8-10. No signature of a person ~~shall~~  
21 may be counted by the secretary of state unless the person is a registered voter in the  
22 county indicated on the signature line. No signature of a person ~~shall~~ may be counted if  
23 the information required on the petition form is not accurate or complete. The secretary  
24 of state shall generate the random sample under § 2-1-16 and make available to the  
25 public ~~the petitions and~~ the random sample validation sheets within thirty days of a  
26 request and payment of reasonable fees in accordance with § 1-8-10.